

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

WEDNESDAY, THE EIGHTH DAY OF DECEMBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

**and**

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT APPEAL NO : 960 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 1-12-2003 in W.P.No.23626 OF 2003 on the file of the High Court.)

Between:

- 1 The APSRTC, rep.by its M.D., Mushirabad, Hyderabad.**
- 2 The Regional Manager, Andhra Pradesh State Road  
Transport Corporation,Visakhapatnam.**
- 3 The Depot Manager, A.P.S.R.T.C.,Visakhapatnam.**

..... APPELLANTS

**AND**

**S.Mehboob, E-063327, Retired Driver of paderu depot,S/o.Late Hyder, Aged 59  
years, R/o.Pithapuram East Godavari Dist.**

.....RESPONDENT

**Counsel for the Appellants: MR.Y.VINAYAKA SWAMY,SC for APSRTC**

**Counsel for the Respondent: MR.S.M.SUBHAN**

The Court made the following :

**THE HON'BLE SMT JUSTICE T.MEENA KUMARI**

**AND**

**THE HON'BLE SRI JUSTICE S.ANANDA REDDY**

**WRIT APPEAL NO.960 OF 2004**

**JUDGMENT: (per the Hon'ble Sri Justice S.Ananda Reddy)**

This writ appeal is filed aggrieved by the order of the learned Single Judge dated 1-12-2003 in W.P.No. 23626 of 2003 under which the Corporation was directed to pay wages to the petitioner till he attains the age of superannuation i.e., 31-5-2002 and also pay the retiral benefits by computing his services up to the date of retirement.

02. According to the Corporation, originally the respondent was working as a driver and was removed on certain allegations. Later, he raised an Industrial Dispute before the Labour Court under I.D. No.22 of 1995 which was allowed by an order dated 17-5-1996 ordering re-instatement. The Corporation was unsuccessful in the writ petition filed against the said order and ultimately the respondent-workman was reinstated in 1996. When he was sent for medical check up, it was found that the respondent was medically unfit to discharge his functions as a driver. He was kept under leave for a period of one year with effect from 1996. Thereafter, an order was passed on 9-10-97 discharging the respondent from service on medical grounds. Thereafter, the respondent-workman has come up with the fresh writ petition No. 23636 of 2003, in which the impugned order was passed. The respondent-workman sought for a direction for payment of the retirement benefits and wages due to him.

03. In the course of arguments it came to light that the respondent-workman did not bring to the notice of this Court about the order passed by the Corporation on 9-10-97 discharging him from service or the writ petition filed by him against the said order, which was dismissed in 1999. Suppressing the said facts, he sought for the relief as if he was in service till the date of superannuation and accordingly claimed

both the retiral benefits as well as the wages on the premise that the same were not paid by the Corporation.

04. It is stated that the learned Single Judge disposed of the writ petition at the admission stage directing the Corporation to pay the retiral benefits up to the age of superannuation and also the wages that are due from 27-4-93 to 31-5-2002. Aggrieved thereby, the Corporation has come up with the present writ appeal.

05. Learned standing counsel for the Corporation contended that as the respondent-workman was discharged from service on 9-10-97, he is not entitled to any benefit, treating his date of superannuation as 31-5-2002, if the respondent is entitled for any benefits they are to be computed up to the period of 1997 and not beyond, as he ceased to be in service. Therefore, the direction given by the learned Single Judge to the Corporation to pay the retiral benefits as well as wages up to 31-5-2002, is unsustainable and not in accordance with the facts.

06. Learned counsel for the respondent, however, sought to contend that when the respondent-workman was discharged from service on the ground that he is not medically fit, he made an application for providing alternative appointment and accordingly his name was kept in the seniority list for providing alternative employment. Even though five years had expired by the date of superannuation, he was not provided with any employment. Therefore, he is entitled for the benefits up to the date of superannuation.

07. Heard both sides and considered the material on record at the stage of admission.

08. Admittedly, the respondent-workman was discharged from service on medical ground on 9-10-97. The said order was assailed before this Court by way of a writ petition and the said writ petition was dismissed, therefore, the orders have become final. Though the respondent-workman made an application for providing alternative employment, he was not provided with any alternative employment and in such a case, the respondent may be entitled for the monetary benefits under the scheme formulated by the Corporation. Therefore, he is not entitled for more than the financial benefits provided under the scheme. With regard to the claim of retiral benefits up to 31-5-2002, as the respondent has not continued in service and he was made to retire on 9-10-97 itself on medical grounds, the respondent is not entitled to any benefits, as was granted by the learned single Judge.

09. Under the above circumstances, the order of the learned Single Judge is modified directing the Corporation to pay the terminal benefits to the respondent taking his date of retirement as 9-10-97. Over and above the terminal benefits, if the respondent is entitled for any monetary benefits under the alternative employment scheme, he has to be paid, if not already paid, within a period of two weeks from the date of receipt of a copy of this Judgment.

10. With the above modification, the writ appeal is disposed of.

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(T.MEENA KUMARI, J)

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(S.ANANDA REDDY,J)

Dated: 08-12-2004

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To

- 1 The APSRTC, rep.by its M.D., Mushirabad, Hyderabad.
- 2 The Regional Manager, Andhra Pradesh State Road

Transport Corporation,Visakhapatnam.

- 3 The Depot Manager, A.P.S.R.T.C.,Visakhapatnam.

- 4 Two C.D. copies.